



# CONSTITUTION OF THE STATE OF IDAHO

## ARTICLE I DECLARATION OF RIGHTS

Section 22. RIGHTS OF CRIME VICTIMS. A crime victim, as defined by statute, has the following rights:

(1) To be treated with fairness, respect, dignity and privacy throughout the criminal justice process.

(2) To timely disposition of the case.

(3) To prior notification of trial court, appellate and parole proceedings and, upon request, to information about the sentence, incarceration and release of the defendant.

(4) To be present at all criminal justice proceedings.

(5) To communicate with the prosecution.

(6) To be heard, upon request, at all criminal justice proceedings considering a plea of guilty, sentencing, incarceration or release of the defendant, unless manifest injustice would result.

(7) To restitution, as provided by law, from the person committing the offense that caused the victim's loss.

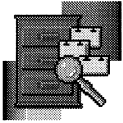
(8) To refuse an interview, ex parte contact, or other request by the defendant, or any other person acting on behalf of the defendant, unless such request is authorized by law.

(9) To read presentence reports relating to the crime.

(10) To the same rights in juvenile proceedings, where the offense is a felony if committed by an adult, as guaranteed in this section, provided that access to the social history report shall be determined by statute.

Nothing in this section shall be construed to authorize a court to dismiss a case, to set aside or void a finding of guilt or an acceptance of a plea of guilty, or to obtain appellate, habeas corpus, or other relief from any criminal judgment, for a violation of the provisions of this section; nor be construed as creating a cause of action for money damages, costs or attorney fees against the state, a county, a municipality, any agency, instrumentality or person; nor be construed as limiting any rights for victims previously conferred by statute. This section shall be self-enacting. The legislature shall have the power to enact laws to define, implement, preserve, and expand the rights guaranteed to victims in the provisions of this section.

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# Idaho Statutes

## TITLE 19 CRIMINAL PROCEDURE

### CHAPTER 53 COMPENSATION OF VICTIMS OF CRIMES

19-5306. RIGHTS OF VICTIM DURING INVESTIGATION, PROSECUTION, AND DISPOSITION OF THE CRIME. (1) Each victim of a criminal or juvenile offense shall be:

- (a) Treated with fairness, respect, dignity and privacy throughout the criminal justice process;
- (b) Permitted to be present at all criminal justice proceedings or juvenile proceedings including probation proceedings;
- (c) Entitled to a timely disposition of the case;
- (d) Given prior notification of trial court, appellate, probation and parole proceedings and, upon request, to information about the sentence, incarceration, placing on probation or release of the defendant;
- (e) Heard, upon request, at all criminal justice proceedings considering a plea of guilty, sentencing, incarceration, placing on probation or release of the defendant unless manifest injustice would result;
- (f) Afforded the opportunity to communicate with the prosecution in criminal or juvenile offenses, and be advised of any proposed plea agreement by the prosecuting attorney prior to entering into a plea agreement in criminal or juvenile offenses involving crimes of violence, sex crimes or crimes against children;
- (g) Allowed to refuse an interview, ex parte contact or other request by the defendant or any other person acting on behalf of the defendant, unless such request is authorized by law;
- (h) Consulted by the presentence investigator during the preparation of the presentence report and have included in that report a statement of the impact which the defendant's criminal conduct had upon the victim and shall be allowed to read, prior to the sentencing hearing, the presentence report relating to the crime. The victim shall maintain the confidentiality of the presentence report, and shall not disclose its contents to any person except statements made by the victim to the prosecuting attorney or the court;
- (i) Assured the expeditious return of any stolen or other personal property by law enforcement agencies when no longer needed as evidence;
- (j) Notified whenever the defendant or suspect is released or escapes from custody. When release is ordered prior to final conviction, notice to the victim shall be given by the law enforcement authority from whose custody the defendant was released. When the release is granted subsequent to a final conviction, notice shall be given to the victim by the law enforcement authority from whose custody the defendant was released unless release is granted by the commission of pardons and parole, in which case the commission shall notify the victim. When a release on probation is being considered following a

period of retained jurisdiction, notice of the hearing shall be given to the victim by the prosecuting attorney.

(2) Upon the filing of a criminal complaint or juvenile petition, the prosecuting attorney shall inform the victim of the various opportunities provided by this section. The victim may exercise any of the rights provided by this section by completing a written request on a form provided by the prosecuting attorney to the clerk of the district court. The clerk thereafter shall notify the appropriate authorities of the victim's requests. Notice thereafter shall be given to the victim at the address provided unless the victim subsequently provides a different address. The victim's address shall be kept confidential by the court except for carrying out the provisions of this chapter.

(3) The provisions of this section shall apply equally to the immediate families of homicide victims or immediate families of victims of such youthful age or incapacity as precludes them from exercising these rights personally. The court may designate a representative from the immediate family to exercise these rights on behalf of a deceased, incapacitated, or minor victim.

(4) Nothing in this section shall be construed to authorize a court to dismiss a case, to set aside or void a finding of guilt or an acceptance of a plea of guilty, or to obtain appellate, habeas corpus, or other relief from any criminal judgment, for a violation of the provisions of this section; nor be construed as creating a cause of action for money damages, costs or attorney's fees against the state, a county, a municipality, any agency, instrumentality or person; nor be construed as limiting any rights for victims previously conferred by statute; nor be construed to require the court appointment of legal counsel or the payment of transportation costs.

(5) As used in this section:

(a) "Victim" is an individual who suffers direct or threatened physical, financial or emotional harm as the result of the commission of a crime or juvenile offense;

(b) "Criminal offense" is any charged felony or a misdemeanor involving physical injury, or the threat of physical injury, or a sexual offense;

(c) "Juvenile offense" is charged conduct that is a violation of law that brings a juvenile within the purview of chapter 5, title 20, Idaho Code, and which conduct committed by a juvenile would be a felony if committed by an adult.

**History:**

[19-5306, added 1985, ch. 122, sec. 3, p. 299; am. 1989, ch. 306, sec. 1, p. 760; am. 1995, ch. 142, sec. 1, p. 604; am. 1998, ch. 356, sec. 1, p. 1114.]

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